



Focus

Complying with State Water Use Laws

Background

Water is vital to our daily activities. How we use water affects all of us, our neighbors, businesses, farms, and the environment. A burgeoning population and growth in businesses and agriculture have increased competition for water. Concern about dwindling fish stocks and their listing under the Endangered Species Act have heightened concern about unauthorized water use and compliance with water resources laws.

Laws regulating water use are not new. Even when Washington's population was small and water demand low, there was recognition that water use required regulation to reduce conflicts among competing water users and to protect the resource. The legislature established the current surface water code in 1917, the groundwater code in 1945, and added provisions addressing water for fish and wildlife in 1949.

Department of Ecology's strategy to gain compliance with water laws

Budget cuts in the mid-nineties virtually eliminated Ecology's water resources compliance work. During the 1999 legislative session, legislators voted to partially restore funding. Ecology now has approximately five full-time staff working on water rights compliance. This includes regional staff along with coordination and support from headquarters staff.

Given the many challenges and our current staffing level, Ecology is using a strategic and balanced approach to bring about improved compliance with water laws. The agency's compliance work relies on both technical assistance and enforcement. It includes the following major actions:

- We are conducting strategic compliance actions in collaboration with watershed planning groups, focussing in three watersheds (Methow, Dungeness, and Skagit) including:
 1. Assessing illegal use
 2. Offering compliance assistance
 3. Taking enforcement actions as needed
 4. Communicating results to local groups and water users
- We are implementing a program to increase water use metering.
- We will limit water withdrawals in selected rivers when water drops below the legally established instream flows (instream flow regulatory response system).

- We are taking individual compliance actions based on violations of the water code or where compliance is needed to protect species listed under the Endangered Species Act (ESA). Our currently targeted areas include the Puyallup-White (ESA listings), the Sammamish (ESA listings), and the Odessa sub-area.
- We are enforcing court orders, particularly to implement the Yakima adjudication, as resources allow.
- We are strategically communicating our compliance actions to secure broader compliance.

Why care about compliance?

While Washington has a long history of regulating water use, compliance with water use laws has become increasingly urgent. Compliance with water law serves a number of important purposes:

- Protecting legal water users from impairment or loss of water by those using water without a right, or beyond the terms of their right.
- Protecting those with senior or older water rights from harm by those with junior or newer rights.
- Keeping enough water in streams to protect the environment, restore fish runs, and meet Endangered Species Act requirements.
- Keeping enough water in streams for other instream uses including recreation, aesthetics, production of electricity, and assimilation of waste discharges.
- Ensuring that water being used without authorization is returned to the stream for allocation to others who are waiting in line for new water rights, and to assist in restoring stream flows.
- Ensuring that water use can be sustained for the long term, rather than drying up streams and depleting aquifers faster than they can be recharged.
- Ensuring that water laws and the permitting system are credible and deter further illegal use.
- Creating awareness about the importance of water use and the need for wise use of our limited water resources.

How is water use regulated?

Water use in Washington State is regulated through a state permit and certificate system, except for smaller exempt groundwater withdrawals usually used for single homes in rural areas. Those applying and receiving water rights first have priority in water use over those applying later. This is often referred to as “first in time is first in right” or the prior appropriation doctrine.

Who must comply?

A water right permit or certificate is required for all uses of surface water (lakes, ponds, rivers, streams, or springs) which began after the 1917 water code was enacted. A water right permit or certificate is also required for ground water withdrawals of more than 5,000 gallons per day or for irrigation of more than one-half acre of non-commercial lawn or garden if the water use began after enactment of the ground water code in 1945.

Property owners who began their water use prior to 1917 may have a water right claim. A water right claim is a statement by the property owner regarding a water use not authorized by a permit or certificate. A claim may represent a valid water right if it describes a surface water use that began before 1917 or a ground water use that began before 1945, and, if the water has been used continuously without a break of five or more years. There are currently more than 168,000 water right claims.

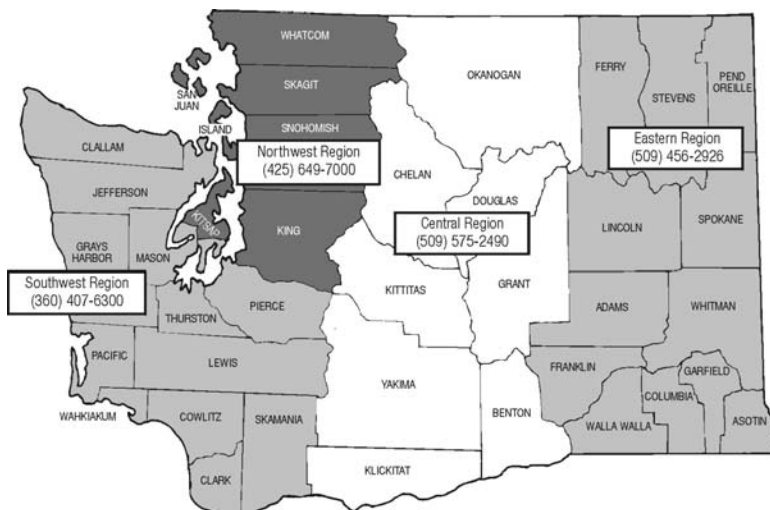
What is illegal water use?

There are several types of illegal water use, including:

- Diverting or withdrawing water without an existing permit, certificate, or water right claim.
- Diverting or withdrawing water in excess of authorized amounts.
- Irrigating more than the authorized number of acres.
- Diverting or withdrawing water beyond the authorized period or time of use.
- Diverting or withdrawing water beyond the authorized place of use.
- Using water for purposes other than those described in the water right.
- Using water in a manner that does not comply with permit and/or certificate provisions (such as instream flow restrictions, fish screen requirements, family farming, and others).
- Wasting water or not using water beneficially.

For more information

For more information contact Darlene Treece, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7255, email [dtre461@ecy.wa.gov], or contact the regional office nearest you.



Additional information can be found on these websites:

Watershed Planning:
www.wa.gov/ecology/watershed/

Water Resources:
www.wa.gov/ecology/wr/wrhome

If you have special accommodation needs or require this document in an alternative format, please contact Christine Corrigan at (360) 407-6607 (voice) or (360) 407-6006 (TDD).